

1 AN ACT concerning corporate fiduciaries.

2 Be it enacted by the People of the State of Illinois,
3 represented in the General Assembly:

4 Section 5. The Corporate Fiduciary Act is amended by
5 changing Section 2-8 as follows:

6 (205 ILCS 620/2-8) (from Ch. 17, par. 1552-8)

7 Sec. 2-8. Collateralization of ~~Collateralizing~~ fiduciary
8 assets.

9 (a) A corporate fiduciary shall not be required and
10 shall not have the power to collateralize or secure fiduciary
11 funds except as provided in this Section.

12 (b) All funds, both principal and income, deposited with
13 or held in a fiduciary capacity by any corporate fiduciary
14 awaiting investment or distribution, and not otherwise
15 subject to direction regarding investment or non-investment,
16 shall to the extent reasonable under existing circumstances,
17 be prudently invested for the beneficiaries at a rate of
18 return commensurate with that available on trust quality
19 investments.

20 (c) Funds, both principal and income awaiting investment
21 or distribution, may be deposited in deposit accounts or
22 other investment vehicles of the corporate fiduciary, or of
23 any affiliate of the corporate fiduciary; and funds, both
24 principal and income awaiting investment or distribution
25 which need not be invested hereunder for the beneficiaries
26 may be commingled with the corporate fiduciary's own funds
27 and used by the corporate fiduciary in the conduct of its
28 business, provided that in either case the following apply:

29 (1) The corporate fiduciary or, in the case of the
30 deposit in an affiliate, such affiliate shall set aside
31 in the corporate fiduciary or affiliate, as the case may

1 be, as collateral, securities of the classes in which
2 corporate fiduciaries are authorized to invest trust
3 funds under the laws of the State of Illinois.

4 (2) The market value of the collateral may not be
5 less than 100% of the amount commingled or deposited.

6 (3) No collateral shall be required or authorized
7 if the deposit is made solely at the direction and
8 determination of the settlor, beneficiary or other
9 person, other than the corporate fiduciary, having the
10 right to direct investment of funds.

11 (4) No collateral shall be required or authorized
12 with respect to any part of such deposit which is insured
13 by the Federal Deposit Insurance Corporation.

14 (d) Funds shall not be held commingled and uninvested or
15 undistributed for an account any longer than is reasonable
16 under existing circumstances for the proper management of the
17 account.

18 (e) The collateralization required in this Section is
19 not required or authorized if the corporate fiduciary or
20 affiliate has in force a surety bond meeting the requirements
21 of this Section if it is in a form approved by the
22 Commissioner and if it indemnifies the owners, settlors, or
23 beneficiaries of funds held in a fiduciary capacity against
24 loss due to the failure of the corporate fiduciary or
25 affiliate and is issued by a licensed insurance company
26 authorized to transact business in the State that has been
27 approved by the Commissioner for the purpose of issuing
28 surety bonds under this Section. A corporate fiduciary or
29 affiliate may also satisfy the requirements of this Section
30 by a combination of a surety bond and collateralization as
31 provided in this Section.

32 (f) In the event of the failure of the corporate
33 fiduciary or affiliate in which the corporate fiduciary has
34 made a deposit or commingled funds, the owners of the

1 fiduciary funds shall have a first lien, to the extent of
2 their interest in such funds, on the cash and securities used
3 as collateral hereunder or the surety bond in addition to
4 their claim against the estate of the corporate fiduciary.

5 (Source: P.A. 88-636, eff. 9-9-94; P.A. 88-662, eff. 9-16-94;
6 89-364, eff. 8-18-95.)